

InfrastructureInvestor

Ten take-aways from II Southeast

Cezary Podkul recounts his top ten insights garnered from last week's Infrastructure Investor: Southeast forum in Miami.

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Anyone who has been watching the US market for public-private partnerships develop will have to admit it's been a slow process. Legislation is still evolving, the first deals are just getting inked and politics remains as much as ever a part of the PPP process.



PPPs: reason for optimism in Puerto Rico, Florida and Georgia

Against this backdrop, three new markets have recently opened up in the Southeast region of North America – Florida, Georgia and Puerto Rico – that give much hope to change this. Each has legislation on the books, a pipeline ready and, perhaps most importantly, the political will in place to make PPP a serious part of its project delivery method.

With this in mind, *Infrastructure Investor* magazine travelled to Miami for the Infrastructure Investor: Southeast forum, where senior officials from Puerto Rico, Florida and Georgia came for a full day of face-to-face interaction with market participants ready to help them build out their infrastructure.

For those of our readers unable to make it to Miami, here are the top ten take-aways from the event (to be followed by Infrastructure Investor: India in New Delhi on 6-7 July – for more info, click here).

- 1) The 'f-word' is 'flexibility':** For those curious what senior transportation officials like Stephanie Kopelousos, the Florida Secretary of Transportation, want from Washington DC, we can summarise it in one word: flexibility. "Give us the flexibility to do what's right for our state," she said during an interview at the event. That means Washington not telling states like Florida what tools they can and can't use in delivering their projects – nor restricting the Federal government in assisting states in delivering projects through PPPs. Prepare to hear a lot more of the 'f-word' as the debate over the new transportation bill heats up next year.
- 2) Think before you 'Cadillac':** Florida's also lucky enough to have a flexible PPP law that allows it to do all kinds of PPPs– including ones that use availability payments. But even as conference attendees celebrated Florida's \$1.64 billion I-595 corridor improvement project for becoming the first US PPP in to remunerate investors through these types of periodic payments, there was a contrarian view that the I-595 didn't necessarily have to be an availability project. Cintra's Carlos Ugarte made the point that Florida added much more capacity to the I-595 than it needed, or to put it more colourfully, "they built a Cadillac", where all they needed was a Honda. So the only way to make the numbers work for the private sector was to go the availability route. Lesson being: if you want to avoid availability payments, don't "Cadillac" your projects.
- 3) Not quite debt:** Of course the big reason why some US politicians want to avoid availability payments is because they do not want to incur debt to finance a stream of 30 years of service payments to a private investor. Which is why, in some circles, availability payments are synonymous with debt. But the reality is a bit more complex. Availability payments "differ from straight debt obligations", explained Mayer Brown's George Miller, one of the lawyers who worked on the I-595 transaction, because they are subject to meeting performance criteria – and a corresponding reduction if those criteria aren't met. Now try to tell your bondholders that you are reducing their interest payments and they'll likely laugh at you. Fair to say, then, that availability payments are debt-like. But debt they ain't.
- 4) At death's door:** TIFIA, on the other hand – the infrastructure lending programme created by the 1998 Transportation Infrastructure Finance and Innovation Act – is very much a form of debt. And thanks to the credit crisis, it's very much in short supply. So much so, in fact, that it could become a bottleneck for PPPs in the highway sector, which are very much dependent on TIFIA. When Kopelousos went to Washington DC to meet with Jim Oberstar, the chairman of the House Transportation and Infrastructure Committee (which will decide in the next transportation bill whether to refill or expand TIFIA), "the issue I brought up first was TIFIA, and how important that program's been for us," she said. Joe Aiello, a partner at Meridiam Infrastructure, put it more bluntly: "Without TIFIA, the [PPP] industry would die."
- 5) Get off the highways:** But as important as TIFIA is, there is a need to think beyond just the headline-grabbing highway PPPs it's helped enable. "Lots of times in the US when you think PPPs you think highways. Most places in the world, that's not the case," pointed out Macquarie's DJ Gribbin. "And I would argue that we're better off as a community advancing PPPs if we see . . . PPPs expand beyond highways," he added. Florida's Stephanie Kopelousos agreed: "Please just don't look at the highway side," she urged investors. "We have 14 deepwater ports, so I challenge you to look at that."
- 6) Get with the programme:** In case you're wondering how to wean the US off of its propensity to associate PPPs with highways, the best solution could be for states to take a programmatic approach to fostering PPPs across various sectors of their economies. Or, to put it briefly, do "similar to what Puerto Rico has done," said Gribbin, who advised Puerto Rico on setting up its PPP programme. Puerto Rico crafted an entire process for evaluating PPP candidates across all sectors of its economy. The proof is in the pipeline: the first four projects up for investment are a package of toll roads, an airport privatisation, a water metering contract and a natural gas power plant. The only catch: to take a programme approach, you first need flexible law that allows PPPs for more than just transportation. So feel free to say the "f-word" again.
- 7) Start small:** There's another lesson to be drawn from Puerto Rico's PPP programme: its phased approach. David Alvarez, the head of Puerto Rico's Public-Private Partnership Authority, outlined the territory's plans for tendering its toll road projects to the private sector in several steps. He'll start off with the simpler projects: leases of four existing toll roads, split into two phases (the PR 5 and PR 22 in phase one and PR 52 and PR 20 in phase two). Then he'll move on to the more complex projects: a mixed lease and development of existing roads (the PR 66 and PR 53), followed by pure new-development, or greenfield projects. "We cannot wait for our first success story," Alvarez said. By taking a phased approach and starting with the smaller, simpler projects, he's paving a road to that success.
- 8) And if you start big, get it right:** Georgia, on the other hand, is taking the opposite approach. The state's first PPP is a massive, \$2.3 billion PPP, the West by Northwest project, aimed at relieving congestion in the metropolitan Atlanta area. It's not necessarily by choice that the state is starting out big: under Georgia's previous PPP law, enacted in 2003, an unsolicited bid rolled in to develop the West by Northwest. And having the private sector do so much work for the project, it made sense to tender it as a PPP when the state created its PPP programme last year. Vance Smith, the Commissioner of the Georgia Department of Transportation, didn't turn a blind eye to this history. He admitted that Georgia hit a "bump in the road" with the 2003 law, which he personally voted for. But this time, he cautioned, things are going to be different, not least because the state is laser-focused on making sure its inaugural PPP is a success. "We've got to get that first one in the bag before we focus on those other ones," Smith said.
- 9) Package deal:** But even if Georgia's starting on the wrong side of the size spectrum, it's got the right approach with regard to one controversial issue in the infrastructure investment community: PDAs. In everyday terms, the acronym stands for "public display of affection," but in the world of PPPs it means "pre-development agreement" and not everyone has much affection for it. Juan Santamaria of ACS said his company, a large Spanish conglomerate that's capable of conducting the engineering and pre-construction feasibility work required to develop, or bring a project to market, is a fan of PDAs. Not so for Meridiam's Aiello, who's a pure equity investor and expressed more skepticism for PDAs: unless, that is, they're packaged together with another project, like in Texas' multi-segment North Tarrant Expressway. Commissioner Smith likely appreciated Aiello's comment: the West by Northwest is a package PPP plus PDA.
- 10) Transfer risk:** As Puerto Rico, Florida and Georgia forge ahead with PPP, it's important to keep in mind that, while it's just one tool in the proverbial toolbox, it's got an extra benefit that makes it more attractive in their region. All three are coastal regions prone to hurricanes. That can spell millions of dollars in damages, including to public infrastructure. But in a PPP, Cintra's Ugarte rightfully pointed out, that risk gets transferred to the private sector. So it's the private investor who will pay for damages in case of a hurricane – not the taxpayer. For Puerto Rico, Florida and Georgia, where transportation budgets are lean, that may be an extra benefit to consider.

PPPs remain a stormy proposition in much of the US, with lots of starts and stops and much uncertainty. Will they blossom in Puerto Rico, Georgia and Florida? Only time will tell. But as the Infrastructure Investor: Southeast delegates gathered over drinks at the conclusion of the event, a big, bright rainbow broke out over the late afternoon Southern Florida sky.

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